



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6

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February 26, 2016

Charles Bolinger
Division Administrator
Federal Highway Administration - Louisiana Division
5304 Flanders Drive, Suite A
Baton Rouge, LA 70808

Mr. Bolinger,

In accordance with our responsibilities under Section 309 of the Clean Air Act (CAA), the National Environmental Policy Act (NEPA), and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, the U.S. Environmental Protection Agency (EPA) Region 6 office in Dallas, Texas, has completed its review of the United States Department of Transportation Federal Highway Administration (FHWA) Tier 1 Final Environmental Impact Statement (FEIS) for the Baton Rouge Loop Toll Project (Loop). The Loop is proposed as a 90 to 105 mile long tolled road around Baton Rouge, Louisiana; with two new Mississippi River crossings. The proposed project is located in Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge Parishes.

EPA's review of the Draft Environmental Impact Statement (DEIS) identified a number of potential adverse impacts. For these reasons we rated the DEIS as "Environmental Objections – Insufficient Information" (EO-2). The EPA's Rating System Criteria can be found here: <http://www.epa.gov/oecaerth/nepa/comments/ratings.html>. In regard to the FEIS, EPA continues to have concerns for environmental justice, wetlands, and greenhouse gases. We have enclosed detailed comments which clarify our concerns.

Please send our office one copy of the record of decision (ROD) to my attention. If you have any questions or concerns, I can be reached at 214-665-7451, or contact Keith Hayden of my staff at hayden.keith@epa.gov or 214-665-2133.

Sincerely,

A handwritten signature in dark ink, reading "Michael Jansky", is written over a light blue horizontal line.

Michael Jansky
Chief, Special Projects Section

Enclosure

**DETAILED COMMENTS ON THE
FEDERAL HIGHWAY ADMINISTRATION
TIER 1
FINAL ENVIRONMENTAL IMPACT STATEMENT
FOR THE BATON ROUGE LOOP**

BACKGROUND: The Federal Highway Administration (FHWA) proposes to construct a high-speed, toll facility project, proposed as a 90 to 105 mile long circumferential controlled access free-flow toll roadway with two new Mississippi River crossings. Because the project proposes work in wetlands and structural crossings of various waterways in the project area, a Department of the Army permit pursuant to section 404 of the Clean Water Act (CWA) is required before any construction activities. EPA understands that a Tier 1 Environmental Impact Statement (EIS) focuses on broad issues over a wide area. However, we feel that the characterization of the project area and its analysis of impacts to the human and natural environment falls short of National Environmental Policy Act (NEPA) intentions. As 23 CFR § 771.111 states, "For major transportation actions, the tiering of EISs as discussed in the CEQ regulation (40 CFR § 1502.20) may be appropriate. The first tier EIS would focus on broad issues such as general location, mode choice, and area-wide air quality and land use implications of the major alternatives. The second tier would address site-specific details on project impacts, costs, and mitigation measures."

WETLANDS

The Tier I Final EIS correctly identifies wetland impacts as a potentially significant adverse environmental effect of the proposed Baton Rouge Loop. The Clean Water Act (CWA) Section 404 requires that wetland impacts be avoided and minimized to the maximum extent practicable, with compensatory mitigation to offset unavoidable adverse impacts. This is accomplished first and foremost through the analysis of potentially less environmentally damaging alternatives. We appreciate the additional information provided that distinguishes wetland type (scrub-shrub, forested, etc.) and percent of hydric soils within each corridor, but there is still no indication of the quality or functional condition of the wetlands that may be impacted. Thus, the Tier I Final EIS still does not provide sufficient information to discriminate amongst corridor sections and corridor alternatives based on potential wetland impacts. Comparing sections or alternatives based on percent wetland land cover, wetland type, and percent of hydric soils does not allow for consideration of the condition or functional value of wetlands within each option. Less damaging corridor alternatives could be eliminated from consideration based on a faulty assumption regarding the correlation between percent wetland cover, percent hydric soils, and percent wetland types, and the acreage and value of potentially impacted wetlands. In the absence of more detailed information on potential wetland impacts, we cannot concur with the determination that the preferred corridors represent the least environmentally damaging practicable alternative.

It is understood that once the least environmentally damaging practicable corridor alternative has been identified, subsequent phases of the NEPA process will rigorously examine ways to avoid and minimize wetland impacts within the selected corridor alternative.

To that end, the EPA recommends the following strategies be considered:

- Site the road in non-wetland locations to the maximum extent practicable.
- Where it is not practicable to avoid wetlands, elevate the road and uses end-on construction to the extent practicable to minimize short- and long-term impacts to wetlands associated with changes in hydrology and other adverse effects.
- Build atop or adjacent to existing roads and other linear rights of way to the maximum extent practicable. This helps minimize fragmentation of existing habitat blocks.
- Locate interchanges away from areas where wetlands comprise a significant portion of the undeveloped landscape. This can reduce the potential for the proposed road to induce or facilitate development in wetlands.
- Avoid alignments that impact wetland mitigation banks. Should avoidance of mitigation banks not be possible, then the costs associated with impacting the banks should be included in any cost analyses of the alternative alignments within the preferred corridors.

ENVIRONMENTAL JUSTICE

- EPA recommends that a more comprehensive and conclusive detailed analysis of minority and low-income population be performed and discussed in the Tier 2 EIS.
- EPA recommends a designated Environmental Justice section be included in the Tier 2 EIS with more specific discussion regarding how affected EJ populations were identified, and any potential direct/indirect or reversible/irreversible impacts. Also discuss how these impacts will be mitigated.
- EPA recommends developing a more comprehensive communication strategy that uses other forms of media such as radio, religious establishments and television, as well as social media to inform the EJ populations of the Project.
- Public meetings should be held within the Environmental Justice area(s) that are being impacted at a time the majority of those impacted are not at work.
- FHWA should incorporate an analysis using EJSCREEN, or another similar comprehensive environmental justice database, to aid in its detailed analysis of environmental justice populations.

TRIBAL CONSULTATION

- FHWA should insure that government to government consultation and coordination activities are implemented and described in the Tier 2 EIS. Please list the names of all tribes that could potentially be affected by the proposed action. In addition to federally recognized tribes, include all state recognized tribes in the FHWA coordination efforts.

GREENHOUSE GAS AND CLIMATE CHANGE

EPA recommends that Federal agencies include an estimate of the GHG emissions associated with the project during construction and operation, a qualitative description of relevant climate change impacts, and an analysis of reasonable alternatives and/or practicable mitigation measures to reduce project-related GHG emissions. The Tier 1 Final EIS does not include this approach. The NEPA analysis also did not consider changes to the design of the proposal to incorporate GHG reduction measures and resilience or adaptation to foreseeable climate change impacts. The Final EIS states that “(g)iven that climate impacts of carbon dioxide emissions are global in nature, analyzing how alternatives evaluated in an EIS might vary in their relatively small contribution to a global problem is not likely to better inform decisions.” Statements like this one do not provide meaningful information for a project-level analysis and we recommend not including this language in the Tier 2 Draft EIS. Climate change is a global problem resulting from the emissions of many individual sources whose impacts are cumulative.

EPA recommends the Tier 2 Draft EIS estimate the GHG emissions associated with the proposal and its alternatives. Example tools for estimating and quantifying GHG emissions can be found on CEQ’s website¹. The estimated GHG emissions can serve as a reasonable proxy for climate change impacts when comparing the proposal and alternatives. In disclosing the potential impacts of the proposal and reasonable alternatives, consideration should be given to whether, and to what extent, the impacts may be exacerbated by expected climate change in the action area, as discussed in the “affected environment” section. If impacts may be exacerbated by climate change, additional mitigation measures may be warranted.

We recommend that the Tier 2 Draft EIS describe measures to reduce GHG emissions associated with the project, including reasonable alternatives or other practicable mitigation opportunities and disclose the estimated GHG reductions associated with such measures. EPA further recommends that the Record of Decision commit to implementation of reasonable mitigation measures that would reduce project-related GHG emissions.

The Final EIS also does not consider potential changes to the affected environment that may occur due to climate change. EPA recommends the Tier 2 Draft EIS describe potential changes to the affected environment that may result from climate change. Including future climate scenarios would help decision makers and the public consider whether the environmental impacts of the alternatives would be exacerbated by climate change. The National Climate Assessment (NCA), released by the U.S. Global Change Resource Program,² contains scenarios for regions and sectors, including energy and transportation.

In addition, we recommend considering climate adaptation measures based on how future climate scenarios may impact the project. Using NCA or other peer reviewed climate scenarios to inform alternatives analysis and possible changes to the proposal can improve resilience and preparedness for climate change.

¹ https://ceq.doe.gov/current_developments/GHG_accounting_methods_7Jan2015.html

² <http://nca2014.globalchange.gov/>

We also recommend that the Tier 2 Draft EIS alternatives analysis, as appropriate, consider practicable changes to the proposal to make it more resilient to anticipated climate change.